

September 20, 2018

Sent via Email

Hon. Laura Taylor Swain
U.S. District Court S.D.N.Y.
500 Pearl Street
New York, NY 10007

My name is Stephen T. Mangiaracina, Esq. I am a COFINA junior bondholder.

On May 5, 2017, the Puerto Rico sales Tax Financing Corporation (COFINA) filed a Voluntary Petition for Title III bankruptcy protection, which is attached hereto as Attachment A. An automatic stay was granted upon the filing.

The issues presented by the filing are ones of criminality. No default is claimed or an inability to pay on the two claims listed. One is a specious credit SWAP by Lehman Brothers Holdings, Inc. and the other by KPMG, LLC for auditing fees. The boxes to indicate whether the claims are contingent, unliquidated, or disputed are left blank. At the time of the filing, COFINA had been in existence for approximately 11 years and, upon information and belief never filed for bankruptcy protection upon receiving a bill.

COFINA was formed as an independent public corporation in 2006 by the then credit dead Commonwealth of Puerto Rico to raise money for the Commonwealth. COFINA issued and sold bonds backed by sales taxes collected and held in trust, separate from the funds deposited into the Commonwealth's general treasury. This is distinct from General Obligation bonds backed by the full faith and credit of the Commonwealth.

Then on May 5, 2017, COFINA sought a stay from meeting its obligations to its bondholders, such as me; which it had never done before. It listed itself as a debtor, but it was not in default of meeting any of its debt obligations or in danger of doing so. By doing so, it turned itself over to the control of the Financial Oversight and Management Board (FOMB).

Annexed hereto as Attachment B, is an opinion written by David Skeel, one of the members of FOMB. It is in the opinion section of the Wall Street Journal, September 13, 2018 edition. Mr Skeel set forth the FOMB's mission statement. Simply put, the FOMB will do anything and everything to restructure the Commonwealth's debt. He states that in order for the FOMB to meet its goal, every constituency must bear some of the sacrifice, Thus the right of a COFINA junior bondholder, such as me, to not have one's property wrongfully taken along with the right to due process be damned.

I respectfully ask the Court to refer the May 5, 2017 filing by COFINA to the Department of Justice for investigation as to whether there were criminal acts committed related to the filing. It is hard to fathom the COFINA Directors filing without solicitation from members of the Financial Oversight and Management Board and the Commonwealth political class. The Directors are appointed by the Governor. There are more than sufficient sales tax revenues flowing into COFINA's trust account held by The Bank of New York Mellon, as Trustee to have met its obligations to its bondholders on May 5, 2017 and through the maturity of the bonds.

Thus, the filing would be for the specific purpose of giving the FOMB control over COFINA so it could manipulate a wrongful taking of property belonging to COFINA bondholders, for the benefit of the Commonwealth. This is what it is attempting to do right now. COFINA had no reason to file other than outside pressure placed on it. As a public corporation for 11 years it was doing just fine with meeting its obligations to its bondholders.

This Court entertained correspondence from interested parties that are now before the Court. I have sent the Court emails on August 15, 2018, August 10, 2018, August 7, 2018, July 2, 2018, June 27, 2018, June 15, 2018 and May 17, 2018, without further contacts (hereto attached as Attachment C). The Court entered this correspondence along with some from other interested parties on the Case Docket with the Court noting there were no responses.

Throughout the correspondence, my understanding was that COFINA was not in default and was ready, willing, and able to meet its obligations to its bondholders, but for a stay imposed by this Court, to remain until the issue as to COFINA's constitutionality was decided. I only learned recently that COFINA, while never in default on any of its debt obligations, filed for voluntary Title III bankruptcy protection.

My June 27, 2018 letter to the Court states in part:

"The efforts of those seeking "settlement" would result in the taking of property belonging to others and having it anointed by judicial process. This is hubris at its best."

My June 15, 2018 letter to the Court states in part:

"My family just wants a decision. This settlement scheme being hatched smells. The Oversight Board's interests which are the Commonwealths, are contrary to those of the sales tax bondholders. It should not be allowed to orchestrate a settlement scenario where it controls everything including the outcome to avoid a decision it apparently fears coming soon. We do not have the deep pockets and organizational capacity to engage in such a charade. I assume most of the other sales tax bondholders are similarly situated. People (families) need to plan their lives and know where they stand, win or lose. I believe the Court at this point in time knows how it intends to rule on this matter. I respectfully ask the Court to render a decision. Thank you."

Mr Skeel (Attachment B) gives no mention of the "little people" who would be hurt if the Oversight Board could wrongfully take some of their property. COFINA junior bondholders are owned by retirees who are residents of Puerto Rico and elsewhere throughout the world. The income from these bonds is their pension. According to Mr. Skeel's callous view, anything goes as long as every constituency bears some of the sacrifice to restructure Puerto Rico's debt. Mr. Skeel is thus telling this Court that it will not be given the opportunity to render a decision on the summary judgment motion that could hold COFINA was constitutionally formed.

According to Mr. Skeel, the COFINA bondholders must have some sacrifice. Mr. Skeel set forth the Oversight Board's mission statement. If there is any chance above zero that the Oversight Board colluded with COFINA and others to file the May 5, 2017 voluntary petition for bankruptcy protection, so it could take over COFINA for the benefit of the Commonwealth and

to the detriment of its bondholders, Federal Agents, including forensic accountants should look into this.

If it turns out that criminality exists, then this Court would have aided and abetted a criminal enterprise. The Court has granted every request by the Oversight Board to stay a decision on the summary judgment motion before you. The Court has publically commented about terms of a proposed settlement and thus indicates it does not intend to render a decision. This emboldens the FOMB.

I have been an attorney for 38 years. The usual course of events, particularly a bench trial with several parties, is for all parties to approach the Court and suggest the possibility of a settlement exists and would request the Court assist. It could be the reverse and the Court asks all the parties if a chance of settlement exists and offers to help.

Here we have the FOMB, unelected political appointees instigating and controlling what it claims to be negotiations, right after the motion was submitted to this Court for decision on April 10, 2018.

The difference with a presiding judge assisting in settlement talks is that the Judge does not have skin in the game. The parties can walk away and continue the trial. Here, the FOMB has skin in the game. Its mission is to pull in as much money as it can for the Commonwealth. It can turn COFINA bondholders against each other. Here the victims are the retail junior bondholders. Deals were cut with insurance carriers and their insureds. Parties agreed not to sell their bonds to assure a successful vote down the road. The retail junior bondholders, whose bonds are not part of an institutions portfolio, which include both senior and junior, get sold out. COFINA will continue to survive and the parties' agreement will settle the motion. If this is not a criminal enterprise, what is?

If criminality exists now, it should not be made to disappear with a preordained vote. Issues of criminality must be addressed now. Does the Commonwealth get a special system of justice where due process is thrown out and a wrongful taking becomes legal because it gets anointed by the Court?

At the time of submission to the Court for decision and order on April 10, 2018, I felt very comfortable as to an ultimate decision. If COFINA is found to be constitutionally formed then its bondholders get back interest due, future interest until maturity of bonds and then payment of their face value by COFINA.

Yet even a decision by this Court holding COFINA was unconstitutionally formed would be better than a settlement that would wrongfully take my property and deny me the due process that comes with a decision and order. There would be the right to an appeal. In such case, the COFINA senior bondholders and their insurers would be the first to file notices of appeal. The seniors and juniors would all be same level general creditors of the Commonwealth.

I respectfully ask the Court to refer the circumstances of the settlement negotiations to the Department of Justice for investigation along with what I set forth above regarding the

circumstances of the May 5, 2017 filing for voluntary Title III bankruptcy protection for COFINA.

I ask the Court to appoint a guardian for COFINA and that the Court order that the FOMB be disassociated from COFINA's affairs.

Respectfully,
Stephen T. Mangiaracina, Esq.
5 Salem Road
Hilton Head Island, SC 29928
(843) 785-5800 Phone
(843) 785-4100 Fax